IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 37 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AKASHDEEP HOUSING SOCIETY THRO' S N RAHA - PRESIDENT

Versus

KANUBHAI PARSOTTAMBHAI PATEL

Appearance:

MR KB PANDE for Petitioner No. 1

MR MC BHATT for Respondent No. 1-6

MR PRANAV G DESAI for Respondent No. 7

Mr. G.L. Shukla, AGP for Respondent No. 8

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 18/09/2002

ORAL JUDGEMENT

Heard Mr. KB. Pande, ld. advocate appearing for the applicant-revisionist and Mr. M.C. Bhatt, ld. advocate appearing for the respondents No. 1 to 6.

2. The present Civil Revision Application is filed against the order passed by the ld. Extra Assistant Judge, Vadodara on 7.1.2000 in Misc. Civil Appeal No. 409 of 1999 whereby the order passed by the ld. Civil

Judge (SD), Baroda in an application Exh. 5 in Regular Civil Suit No. 769/99 was set aside. The impugned order is an interlocutory order and the main suit is still pending before the trial court. In view of the amendment made in Sec. 115 of the Civil Procedure Code, the present Civil Revision Application is not maintainable. Mr. Pande, ld. advocate appearing for the applicant seeks permission to withdraw this CRA so as to enable the applicant to file a Special Civil Application under Art. 227 of the Constitution. Permission as prayed for is granted. The present Civil Revision Application is accordingly disposed of as having been withdrawn.

3. Mr. Pande has, however, submitted that the interim relief granted by this Court should be extended for the period of three weeks from today. On the other hand, Mr. M.C. Bhatt, ld. advocate submits that there is no question of extending the interim relief once the Court rejected this Civil Revision Application on the ground that it is not maintainable. However, he makes the statement that no further construction would be made by the respondents on the disputed land for a period of two weeks from today. Mr. Bhatt further submits that his clients will file an undertaking to this effect within two days. In this view of the matter, the interim relief earlier granted is not extended as the statement recorded herein would serve the purpose in the matter.

4. With the above observations, the present Civil Revision Application is accordingly disposed of. Rule is discharged with no order as to costs. The Office is directed to return the Record & Proceedings to the trial Court as early as possible.

rmr. [K.A. Puj, J.]